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BEFORE THE ARIZONA CORPORATION COMMISSION

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2006 JUN 15 P 3:50

JEFF HATCH-MILLER, Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

AZ CORP COMMISSION
DOCUMENT CONTROL

IN THE MATTER OF THE APPLICATION OF
BLACK MOUNTAIN SEWER CORPORATION,
AN ARIZONA CORPORATION, FOR A
DETERMINATION OF THE FAIR VALUE OF
ITS UTILITY PLANT AND PROPERTY AND
FOR INCREASES IN ITS RATES AND
CHARGES FOR UTILITY SERVICE BASED
THEREON.

DOCKET NO. SW-02361A-05-0657

**STAFF'S ALTERNATIVE
RECOMMENDATION FOR USE
OF FUNDS IN THE HOOK-UP
FEE ACCOUNT**

A hearing in the above captioned matter began on June 7, 2006. On June 9, 2006, the Staff of the Arizona Corporation Commission ("Staff") called Staff witness Mr. Marlin Scott, Jr. to the stand. In his testimony, Mr. Scott offered an alternative recommendation that was not included in any of Staff's pre-filed testimony. In her pre-filed testimony, Staff witness Crystal Brown recommended that the Commission rescind Black Mountain Sewer Corporation's (the "Company") hook-up fee. Ms. Brown also recommended that the Company replace certain funds and then refund the entire account to its customers. Mr. Scott offered an alternative recommendation for use of the hook-up fee funds.

Administrative Law Judge Dwight Nodes ("ALJ Nodes") directed Staff to file a written proposal for the alternative recommendation no later than June 15, 2006. Staff hereby files its proposal as directed ALJ Nodes. Note that transcripts are not yet available. Accordingly, this filing is based on Staff's recollection of the testimony provided during hearing.

The Town of Carefree (the "Town") and the Boulders Home Owners Association (the "Boulders HOA") intervened in this proceeding. The Town and Boulders HOA have raised issues related to odor and noise control for various facilities operated by the Company. During the public

1 comment session a number of homeowners complained about odor and noise emanating from the
2 Company's facilities. Additionally, many homeowners have filed complaints in the docket.
3 Although the intervenors have had discussions with and worked with the Company, they have not
4 resolved their disputes. They recommend that the Commission not grant the Company's request for a
5 rate increase until the disputes have been resolved.

6 Company witness Mr. Robert Dodds testified that the Company is in compliance with all
7 statutes and regulations addressing odor and noise control. Mr. Scott testified that he contacted the
8 Arizona Department of Environmental Quality ("ADEQ") and the Maricopa County Department of
9 Environmental Services ("MCDES") and the Company is in compliance. Nevertheless, the Town
10 and Boulders HOA continue to ask the Company to make discretionary improvements to address
11 homeowners' complaints. The improvements could require redesign of the system, replacement of
12 aging facilities, and/or the addition of new control systems.

13 During public comment, some of the homeowners stated that they believed the entire system
14 has odor and noise problems. However, the testimony so far appears to focus on two parts of the
15 system. The first part is the Carefree Inn Estates Lift Station ("C.I.E. Lift Station"). Company
16 witness Mr. Dodds testified that the Company has engaged an engineering consultant and may
17 replace or bypass the C.I.E. Lift Station. The improvements could occur within the next six months.
18 Mr. Dodds testified that these improvements could cost between \$200,000 and \$500,000.

19 The second part is the pipe that runs from the Boulders manhole to the Company's wastewater
20 treatment facility. The Town and Boulders HOA ask the Company to do two improvements. First,
21 they want the Company to install a charcoal filtered venting system where the pipe enters the
22 treatment facility. Second, they want the Company to install a negative pressure control system to
23 prevent the pipe from filling beyond design capacity. Several homeowners stated that when pressure
24 in the line increases beyond design capacity, sewage runs into the streets and into their toilets and
25 bathtubs. It is unclear whether the Company will agree to any or all of the improvements suggested
26 by the intervenors.

27 Mr. Scott testified that Staff met early Friday morning on June 9, 2006 to discuss its
28 alternative recommendation. Initially, the Company has agreed to Staff's recommendation to rescind

1 its hook-up fee. It has also agreed to replace certain funds. Finally, the Company agreed to refund
2 the entire account of approximately \$833,000. The Company estimates that each customer would
3 receive approximately \$447. Because of the contentious nature of the complaints and issues, Staff
4 believed that the Commission should have options that could address customer complaints. There
5 does not seem to be disagreement over whether the system needs or will need improvement because
6 of its age and increasing customer load. Notwithstanding its recommendation to rescind the hook-up
7 fee tariff, Staff decided to suggest an alternative use of funds in the hook-up fee account.

8 Mr. Scott testified that the money could be set aside and reserved for system improvements to
9 address homeowners' complaints. He expressly testified that Staff's primary recommendation
10 remained refunding hook-up fees to customers. He also testified that the hook-up fee amounts should
11 not limit how much the Company spends on necessary improvements. Staff planned to have Ms.
12 Brown discuss accounting treatment for the alternate recommendation when she took the stand. She
13 would have also discussed refunding any remaining amounts when the Company completed the
14 improvements necessary to satisfy its customers.

15 However, Staff has reconsidered its alternate recommendation. On cross examination, it
16 appeared that the Company did not agree with the alternative recommendation. The Town and
17 Boulders HOA did not ask Mr. Scott any questions on cross examination. Therefore, the Town and
18 Boulders HOA do not appear to have a position on the alternative recommendation. Staff withdraws
19 its alternative recommendation to prevent further complication of the case. Staff had hoped that its
20 alternative recommendation would bring the parties together and provide a process and pool of funds
21 for system improvements to address customer complaints.

22
23 RESPECTFULLY SUBMITTED this 15th day of June, 2006.

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25 

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1 Original and thirteen (13) copies
2 of the foregoing were filed this
3 15th day of June, 2006 with:

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